Criminal Appeal No. 67-DB of 1998 and
Criminal Revision No. 281 of 1998

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

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Criminal Appeal No. 67-DB of 1998

Karam Singh and others **...**Appellant

VERSUS

State of Punjab **...**Respondent

Present: Mr. Vinod Ghai, Advocate,
for the appellants.

Mr.V.K. Jindal, Additional Advocate General, Punjab.

Mr. Baldev Singh, Senior Advocate, with
Mr. Arshvinder Singh, Advocate,
for the complainant.

Criminal Revision No. 281 of 1998

Jaswinder Kaur **...**Petitioner

VERSUS

Karam Singh and others **...**Respondents

Present: Mr. Baldev Singh, Senior Advocate, with
Mr. Arshvinder Singh, Advocate,
for the petitioner.

Mr. Vinod Ghai, Advocate,
for the respondents Nos. 1 to 4.

Mr. V.K. Jindal, Additional Advocate General, Punjab.

Criminal Appeal No. 67-DB of 1998 and
Criminal Revision No. 281 of 1998

1. Whether the Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest ?

CORAM :

HON'BLE MR.JUSTICE ASHUTOSH MOHUNTA.

HON'BLR MR. JUSTICE MOHINDER PAL.

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MOHINDER PAL, J.

This judgment will dispose of **Criminal Appeal No.67-DB of 1998** filed by appellants Karam Singh, Santa Singh alias Jaswant Singh, Sarwan Singh and Balwinder Singh alias Geja and **Criminal Revision No.281 of 1998** filed by Jaswinder Kaur (complainant / petitioner).

2. Appellants Karam Singh, Santa Singh, Sarwan Singh and Balwinder Singh were tried in case First Information Report No.45 dated March 21, 1996 under Section 302 read with Section 34 of the Indian Penal Code (hereinafter referred to as `the Code') registered at Police Station Dhilwan, District Kapurthala. Vide the impugned judgment dated January 15, 1998, passed by the learned Sessions Judge, Kapurthala, each of the appellant was sentenced to undergo rigorous imprisonment for life and

to pay Rs.5,000/- as fine for the offence punishable under Section 302 read with Section 34 of the Code. In default of payment of fine, they were ordered to undergo further rigorous imprisonment for one year.

3. **Criminal Revision No.281 of 1998** has been preferred by Jaswinder Kaur (complainant) praying for award of adequate compensation to the legal heirs of Rattan Singh (since deceased) by imposing heavy fine upon the appellants.

4. First Information Report (Exhibit P.C/1) in this case was registered on the basis of statement (Exhibit P.C) made by complainant Jaswinder Kaur before Sub Inspector/Station House Officer Mohan Singh of Police Station Dhilwan on March 21, 1996. In her statement, she stated that on that day at about 3.15 P.M, when she along with her husband Rattan Singh and son Jagjit Singh was sitting in the Gurudwara of Village Fatehpur, where they had gone for collecting cheque from the concerned officers for their damaged crops, all the appellants came there in white Fiat Car bearing registration No.PAQ-11. Appellants Karam Singh and Balwinder Singh were armed with `Kirpans', appellant Sarwan Singh was armed with `Kirch' and appellant Santa Singh was armed with small `Kirpan'. They raised `lalkara' that Rattan Singh should not be left alive and on hearing it, Puran Singh, Sarpanch, resident of Village Bhandal Bet and Jagjit Singh, son of the complainant, also arrived there. Out of fear, Rattan Singh tried to run outside the boundary wall of the Gurdwara. In

the meantime, appellant Karam Singh gave blows with his `Kirpan' to Rattan Singh, which hit him on the middle of waist and other parts of his body. Appellant Sarwan Singh gave three `Kirch' blows to Rattan Singh which hit him on the right side of stomach and back. Appellant Santa Singh also gave three `Kirpan' blows to Rattan Singh hitting him on the chest and right hand. Appellant Balwinder Singh struck three blows with `Kirpan' on the head, waist and little finger of left hand of Rattan Singh. After causing injuries, the appellants decamped with their respective weapons. Rattan Singh succumbed to the injuries at the spot.

The cause of grudge for the appellants to cause the murder of Rattan Singh, as described by Jaswinder Kaur (complainant) in her statement Exhibit P.C, is that about one and a half years prior to the occurrence, there occurred a dispute between the complainant party and appellant Karam Singh, in which Pargat Singh, son of appellant Karam Singh, was killed.

5. Sub Inspector Mohan Singh then went to the place of occurrence situated in Village Fatehplur. He prepared injury statement (Exhibit P.BB) and inquest report (Exhibit P.D) in respect of the dead body of Rattan Singh. He prepared rough site plan (Exhibit P.CC) of the place of occurrence with correct marginal notes. He lifted blood-stained earth from the spot and after sealing it in a parcel, took it into possess vide recovery memo Exhibit P.Q, attested by the witnesses.

6. Sub Inspector Mohan Singh despatched the dead body of Rattan Singh for post mortem examination through Constable Guriqbal Singh along with request Exhibit P.B.

7. On March 22, 1996, Dr. Prem Singh (P.W.1) along with Dr.Subash Chander and Dr. Surjit Singh Mahi, conducted post mortem examination on the dead body of Rattan Singh. As many as 27 injuries were found on the dead body, out of which 21 were incised wounds.

Exhibit P.A is the post-mortem examination report and Exhibit P.A/1 is the pictorial diagram showing the seats of the injuries.

In the opinion of the doctors, the cause of death was the result of injuries to vital organs collectively, which were sufficient to cause death in ordinary course of nature. All the injuries were ante mortem in nature. Probable time that elapsed between injuries and death was immediate while between death and post mortem examination it was within 24 hours.

Dr.Subash Chander (P.W.2), who was one of the members of the Board constituted for the post mortem examination of Rattan Singh, after seeing the `Kirch' (Exhibit P.1) and `Kirpans' (Exhibits P.2 to P.4) opined that the incised wounds found on the dead body of Rattan Singh could be caused with these weapons.

8. On March 28, 1996, accused Karam Singh, Santa Singh and Balwinder Singh were produced before Sub Inspector Mohan Singh (P.W.13), by P.W Ajit Singh. On March 30, 1996, when

these accused were in police custody, they were interrogated by Sub Inspector Mohan Singh. They made separate disclosure statements and in pursuant thereto got recovered `Kirpans' from the places of concealment. They were taken into possession vide recovery memos Exhibits P.U, P.V and P.W.

On April 04, 1996, accused Sarwan Singh was produced before Sub Inspector Mohan Singh by Sarpanch Ajit Singh. On April 06, 1996, upon interrogation, he suffered disclosure statement and in pursuance thereof got recovered `Kirch' used in the crime, which was taken into possession vide recovery memo Exhibit P.Z.

Parcels containing blood-stained earth (Exhibit P.Q), `Kirch' (Exhibit P.1), and `Kirpans' (Exhibits P.2 to P-4) were sent to the Chemical Examiner. As per report of the Chemical Examiner (Exhibit P.HH), these were found to be blood-stained.

9. After completion of investigation, challan was put in the Court for the trial of the afore-mentioned accused.

10. Charge was framed against all the four accused for the offence punishable under Section 302 read with Section 34 of the Code. They did not plead guilty to the charge and had claimed trial.

11. The prosecution, at the trial, examined thirteen witnesses, namely, P.W.1 Dr. Prem Singh, P.W.2 Dr.Subash Chander, P.W.3 Jaswinder Kaur, complainant, P.W.4 Puran Singh, an eye-witness, P.W.5 Harjinder Singh, P.W.6 Constable Inderjit Singh, P.W.7 Constable Balwinder Singh, P.W.8 Kartar Singh,

P.W.9 Jagjit Singh, another eye-witness, P.W.10 Jagdish Lal, P.W.11 Assistant Sub Inspector Dildar Singh, P.W.12 Magh Singh and P.W.13 Sub Inspector Mohan Singh, Investigating Officer. They proved various documents which are on the file.

12. After completion of prosecution evidence, statements of the accused were recorded under Section 313 of the Code of Criminal Procedure. They denied prosecution allegations and pleaded false implication.

Accused Karam Singh stated that before this occurrence, his son was murdered by the sons of the complainant and others and on his statement case was registered against them. On that account, he and his other family members were falsely implicated in this case.

Similar statements were made by accused Santa Singh, Sarwan Singh and Balwinder Singh.

No evidence was led in defence.

13. We have heard Mr. Vinod Ghai, learned counsel for the appellants, Mr. V.K. Jindal, learned Additional Advocate General, Punjab and Mr. Baldev Singh, learned senior counsel assisted by Mr.Arshvinder Singh, Advocate, for the complainant and have scrutinised the evidence with their help.

14. In this case, the prosecution version is supported by three eye-witnesses, namely, P.W.3 Jaswinder Kaur, complainant, P.W.4 Puran Singh and P.W.9 Jagjit Singh. All the three categorically supported the prosecution case and gave details of the occurrence, as mentioned in the earlier part of

the judgment. They categorically stated that the motive for causing fatal injuries to Rattan Singh by the accused was that in an earlier occurrence, son of Karam Singh (appellant) was killed and two sons of Rattan Singh (deceased) were named as assailants for causing murder of the son of Karam Singh (appellant). In another case in which a collateral of Karam Singh was murdered, Rattan Singh (deceased) was also named as an accused. There is no contradiction between their statements. The testimonies of these witnesses are reliable.

15. Learned counsel for the appellants has vehemently contended that the presence of Jaswinder Kaur (P.W.3) and Jagjit Singh (P.W.9) at the time of occurrence is doubtful and they being wife and son, respectively, of Rattan Singh (deceased) have been shown as eye-witnesses to support the prosecution case. He further contended that there was no occasion for Jaswinder Kaur and Jagjit Singh to go for collecting cheque from the concerned officers for their damaged crops. The cheque was to be issued in the name of Rattan Singh (deceased), as has been admitted by Jaswinder Kaur (P.W.3) in her cross-examination. So far as P.W.4 Puran Singh, another eye-witness, is concerned, learned counsel for the appellants pointed out that he is also an interested witness. Puran Singh's sons and brother are also involved along with others in the case registered for the murder of appellant Karam Singh's son.

16. We do not find merit in the contention raised by

learned counsel for the appellants. It was not unusual for Jaswinder Kaur (P.W.4), wife of Rattan Singh and Jagjit Singh, son of Rattan Singh, to accompany him to collect cheque to be issued for their damaged crops. Their statements cannot be discarded merely because of their relationship with the deceased. It is highly improbable that they would falsely implicate the appellants leaving aside the real culprits. Presence of P.W.4 Puran Singh along with the deceased as well as Jaswinder Kaur and Jagjit Singh is well established at the time of occurrence because he had also gone to collect cheque for his damaged crops and he received the same. So, this is a case of direct evidence against the appellants, which is credible.

17. The medical evidence in this case furnishes good corroboration to the ocular version of P.W.3 Jaswinder Kaur, P.W.4 Puran Singh and P.W.9 Jagjit Singh. Dr. Prem Singh (P.W.1), who along with Dr.Subash Chander and Dr. Surjit Singh Mahi, conducted post mortem examination on the dead of Rattan Singh, had observed 27 injuries on the dead body, out of which 21 were incised wounds. In the opinion of the doctors, the cause of death was the result of injuries to vital organs collectively, which were sufficient to cause death in ordinary course of nature. Probable time that elapsed between injuries and death was immediate while between death and post mortem examination it was within 24 hours. Dr.Subash Chander (P.W.2), after seeing the `Kirch' (Exhibit P.1) and `Kirpans' (Exhibits P.2 to P.4) opined that the incised wounds found on the dead

body of Rattan Singh could be caused with these weapons.

18. Learned counsel for the appellants argued that out of enmity, appellant Karam Singh, his two sons Santa Singh and Sarwan Singh (appellants Nos. 2 and 3) and his nephew Balwinder Singh (appellant No.4) have been falsely implicated in this case. Before this occurrence, son of Karam Singh was murdered by the sons of the complainant and others and on his statement case was registered against them.

19. This contention of learned counsel for the appellants is not worthy of credence. Jaswinder Kaur, Puran Singh and Jagjit Singh, eye-witnesses, have categorically stated that the appellants had caused the murder of Rattan Singh. The appellants had a strong motive to do so. As mentioned above, there was a long-standing enmity between the appellants, on the one side, and the deceased as well as his family members, on the other side. The prompt lodging of the First Information Report in this case and the receipt of the special report by the Ilaqa Magistrate in a way is a guarantee for the veracity of the prosecution case. The occurrence in this case had taken place at 3.15 P.M on march 21, 1996. Statement of complainant Jaswinder Kaur was recorded at about 4.45 P.M. The special report had reached the Ilaqa Magistrate on the same day at 7 P.M. Thus, it is revealed that the First Information Report was lodged with promptness. There was no time for any fabrication and for twisting of the facts.

20. It was also contended by the learned counsel for the

appellants that there were no injuries on the persons of the eye-witnesses. He contended that the appellants had also strong motive to cause injuries to Jaswinder Kaur, Puran Singh and Jagjit Singh and the very fact that they did not do so, belies the motive as set up by the prosecution.

21. In view of the facts and circumstances of the case, as enumerated above, this argument of the learned counsel for the appellants is not enough to reject the entire prosecution case. It has come on record that appellants Karam Singh and Balwinder Singh were armed with `Kirpans', appellant Sarwan Singh was armed with `Kirch' and appellant Santa Singh was armed with small `Kirpan'. They raised `lalkara' that Rattan Singh should not be left alive. Rattan Singh tried to run from the spot, but was overpowered by the appellants. All the appellants gave injuries to Rattan Singh, as a result of which he died at the spot. After causing injuries to Rattan Singh, the appellants ran away from the spot. They did not harm the eye-witnesses, whose presence is otherwise established on record, as discussed above. Different persons react differently in similar circumstances. It is difficult to probe into the minds of the accused as to how they act in a particular way. The case of prosecution against the accused is well-founded on the basis of direct evidence and medical evidence.

22. After having scrutinized the evidence, we do not find any infirmity in the impugned judgment. We uphold the impugned

judgment and the sentence order and dismiss Criminal Appeal No.67-DB of 1998. As the sentence of imprisonment and fine imposed on the appellants commensurates with the offence committed by them, Criminal Revision No.281 of 1998 filed by complainant Jaswinder Kaur is also dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

October 09, 2007.
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(MOHINDER PAL)
JUDGE